

STATE PERSONNEL BOARD CALENDAR



APRIL 4, 2006

SACRAMENTO

State of California

Memorandum

DATE: March 24, 2006

TO: ALL INTERESTED PARTIES

FROM: STATE PERSONNEL BOARD – Executive Office

SUBJECT: Notice and Agenda for the **April 4, 2006**, meeting of the State Personnel Board.

PLEASE TAKE NOTICE that on April 4, 2006, at offices of the State Personnel Board, located at 801 Capitol Mall, Room 150, Sacramento, California, the State Personnel Board will hold its regularly scheduled meeting. Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 W. 4th Street, Los Angeles, California.

The attached Agenda provides a brief description of each item to be considered and lists the date and approximate time for discussion of the item.

Also noted is whether the item will be considered in closed or public session. Closed sessions are closed to members of the public. All discussions held in public sessions are open to those interested in attending. Interested members of the public who wish to address the Board on a public session item may request the opportunity to do so.

Should you wish to obtain a copy of any of the items considered in the public sessions for the April 4, 2006, meeting, please contact staff in the Secretariat's Office, State Personnel Board, 801 Capitol Mall, MS 52, Sacramento, California 95814 or by calling (916) 653-0429 or TDD (916) 654-2360, or the Internet at:

<http://www.spb.ca.gov/calendar.htm>

Should you have any questions regarding this Notice and Agenda, please contact staff in the Secretariat's Office at the address or telephone numbers above.

A handwritten signature in black ink, appearing to read 'Karen Yu', with a stylized flourish at the end.

Karen Yu
Secretariat's Office

Attachment



CALIFORNIA STATE PERSONNEL BOARD

801 Capitol Mall • Sacramento, California 95814 • www.spb.ca.gov

ARNOLD SCHWARZENEGGER, Governor



CALIFORNIA STATE PERSONNEL BOARD MEETING¹

801 Capitol Mall
Sacramento, California

Public Session Location – 801 Capitol Mall
Sacramento, California, Room 150
Teleconference – 320 West 4th Street²
Los Angeles, California, Suite 620

Closed Session Location – 801 Capitol Mall
Sacramento, California, Room 141
Teleconference – 320 West 4th Street
Los Angeles, California Suite 620

FULL BOARD MEETING – APRIL 4, 2006

¹ Sign Language Interpreter will be provided for Board Meeting upon request - contact Secretariat at (916) 653-0429, or CALNET 453-0429, TDD (916) 654-2360.

²Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 West 4th Street, Los Angeles, California.

FULL BOARD MEETING AGENDA³

APRIL 4, 2006
9:00 a.m. – 12:00 p.m.
(or upon completion of business)

PLEASE NOTE: ALL TIMES ARE APPROXIMATE AND ARE SUBJECT TO CHANGE

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(9:00 a.m. – 9:45 a.m.)

- 1. ROLL CALL**
- 2. REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura**
- 3. REPORT OF THE DEPARTMENT OF PERSONNEL ADMINISTRATION (DPA)**
 - DPA Representatives**
- 4. REPORT OF THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)**
 - Maeley Tom**
- 5. REPORT OF THE CHIEF COUNSEL – Elise Rose**
- 6. NEW BUSINESS**

Items may be raised by Board Members for scheduling and discussion for future meetings.

- 7. REPORT ON LEGISLATION – Sherry Hicks**

The Board may be asked to adopt a position with respect to the bills listed on the legislation memorandum attached hereto.

³ The Agenda for the Board can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

(9:45 a.m. – 10:15 a.m.)

8. ORAL ARGUMENT

Oral argument in the matter of **RICK OCHOA, CASE NO. 04-2373B**
Appeal for determination of back salary, benefits and interest. Youth
Correctional Officer. Department of the Youth Authority.

(10:15 a.m. – 10:45 a.m.)

9. INFORMATIONAL BRIEFING – CPS HUMAN RESOURCE SERVICES
- CPS Human Resource Services Staff

SPB Contracts: Quarterly informational briefing regarding the programs
CPS Human Resource Services (CPS) provides through contract on behalf of the
State Personnel Board. This includes the Administrative Hearing Interpreter and
Medical Interpreter Certification Programs and the Merit Systems Services
Programs. Through the Interpreter Programs, CPS establishes, maintains and
administers a listing of certified interpreters to provide language assistance in
Administrative Hearings and Medical Examinations at state agencies. The Merit
System Services Program includes 1) the administration of the Interagency Merit
System for employment of income maintenance, food stamps, employment
service, social service, Medi-Cal, and child support staff on the basis of
standards established and maintained by the SPB for 30 of the smaller California
counties; 2) the review of the personnel practices in the 28 Approved Local Merit
System counties for continuing conformity and compliance with federal and state
merit standards in their employment of merit staff; and 3) Liaison with county
local government associations.

State Contracts: Informational briefing of the types of services provided in the
Human Resource Services area for other state departments.

(10:45 a.m. – 11:00 a.m.)

10. NEW EMPLOYEE ORIENTATION
- California State Personnel Board Staff

Introduction of new State Personnel Board Employees.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

(11:00 a.m. – 11:30 a.m.)

11. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

12. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

13. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.
[Government Code sections 11126(e)(1) and 18653.]

Connerly v. State Personnel Board, California Supreme Court,
Case No. S125502.

International Union of Operating Engineers v. State Personnel Board,
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

14. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

15. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor.
[Government Code section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(11:30 a.m. – Onwards)

- 16. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF
APRIL 18, 2006, IN SACRAMENTO, CALIFORNIA**

BOARD ACTIONS:

- 17. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF
MARCH 8, 2006**
- 18. EVIDENTIARY CASES - (See Case Listings on Page 10-16)**
- 19. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE
SECTION 18671.1 EXTENSION - (See Agenda on Page 21-22)**
- 20. NON-EVIDENTIARY CASES - (See Case Listings on Page 16-19)**
- 21. NON-HEARING CALENDAR**

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff. It is anticipated that the Board will act on these proposals without a hearing.

Anyone with concerns or opposition to any of these proposals should submit a written notice to the Executive Officer clearly stating the nature of the concern or opposition. Such notice should explain how the issue in dispute is a merit employment matter within the Board's scope of authority as set forth in the State Civil Service Act (Government Code section 18500 et seq.) and Article VII, California Constitution. Matters within the Board's scope of authority include, but are not limited to, personnel selection, employee status, discrimination and affirmative action. Matters outside the Board's scope of authority include, but are not limited to, compensation, employee benefits, position allocation, and organization structure. Such notice must be received not later than close of business on the Wednesday before the Board meeting at which the proposal is scheduled. Such notice from an exclusive bargaining representative will not be

entertained after this deadline, provided the representative has received advance notice of the classification proposal pursuant to the applicable memorandum of understanding. In investigating matters outlined above, the Executive Officer shall act as the Board's authorized representative and recommend the Board either act on the proposals as submitted without a hearing or schedule the items for a hearing, including a staff recommendation on resolution of the merit issues in dispute.

A. BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH, REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE CRITERIA, ETC.

INVESTIGATIVE CERTIFIED PUBLIC ACCOUNTANT

The Department of Consumer Affairs, California Board of Accountancy proposes revisions to the class series of Investigative Certified Public Accountant including the following: addition of new tasks and duties created by reform legislation and the expanded regulation of the accounting industry; and revisions to the minimum qualifications.

B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.

THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE PERSONNEL BOARD propose to abolish the following unused classifications, which have been vacant for more than twenty-four months. Departments that utilize the class as well as the appropriate union have no objection to the abolishment of these classes.

Title	Class Code
Associate Boating Administrator	1102
Assistant Boating Administrator	1101
Boating Programs Trainee	1036
Reciprocity Officer, State Controllers Office	3291
Title Specialist III	5039
Business Equipment Analyst	5145
Associate Business Equipment Analyst	4165
Direct Construction Office Manager	4011
Supervising Land Agent (Managerial)	5005
Assistant Purchasing Manager	1932
Manager, Disabled Access Compliance Unit, Office of State Architect	4007

22. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

BLANKETING IN SAN DIEGO FIRE PROTECTION STAFF

The California Department of Forestry and Fire Protection requests that the Placer Consolidated Fire Protection District employees be transferred into State civil service.

23. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Merit Employment and Technical Resources Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and it is approved by the State Personnel Board, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

CHIEF, ADMINISTRATIVE OFFICER

The Department of Food and Agriculture proposes to re-allocate the existing CEA allocation titled Chief Administrative Officer to the above positions. The Chief, Administrative Officer will be responsible for developing and implementing department-wide policies in the areas of purchasing, contracting, building security, budgeting, and telecommunications.

CHIEF, PERSONNEL MANAGEMENT

The Department of Food and Agriculture proposes to allocate the above position to the CEA category. The Chief, Personnel Management will be responsible for developing and implementing department-wide policies, administering Department and county exam programs, developing leadership, mentoring, and succession planning programs for the Department and 52 District Agriculture Associations.

DEPUTY DIRECTOR, CUSTOMER DELIVERY DIVISION

The Department of Technology Services proposed to allocate the above position to the CEA category. The Deputy Director, Customer Delivery Division is responsible for the on-going marketing, promotion, analysis, management and oversight of technical products, and services to the Department of Technology Services customers.

DEPUTY DIRECTOR, POLICY AND PLANNING DIVISION

The Department of Technology Services proposes to allocate the above position to the CEA category. The Deputy Director, Policy and Planning Division will oversee the business planning activities necessary to accomplish strategic goals and objectives, enable better administration of departmental initiatives, and improve communications with all DTS stakeholders.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

CHIEF, POLICY, RESEARCH & FORECASTING BRANCH, LICENSING AND CERTIFICATION BRANCH

The Department of Health Services has withdrawn their proposal to allocate the above position to the CEA category effective March 6, 2006.

**ASSISTANT CHIEF COUNSEL, OFFICE OF DIRECTOR, LEGAL UNIT, NORTHERN REGION
ASSISTANT CHIEF COUNSEL, OFFICE OF DIRECTOR, LEGAL UNIT, LOS ANGELES**

The Department of Industrial Relations proposal to allocate the above positions to the CEA category has been approved effective March 6, 2006.

ASSISTANT DEPUTY DIRECTOR, ENTERPRISE PLANNING AND SERVICES BRANCH

The Department of Motor Vehicles proposal to allocate the above position to the CEA category has been approved for a period of twenty-four months effective March 6, 2006.

CHIEF, OFFICE OF SELF INSURANCE PLANS

The Department of Industrial Relations proposal to allocate the above position to the CEA category has been approved for a period of twenty-four months effective March 6, 2006.

24. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

25. WRITTEN STAFF REPORT FOR BOARD INFORMATION

NONE PRESENTED

26. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

27. BOARD ACTIONS ON SUBMITTED ITEMS – (See Agenda on Page 20)

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those are listed separately by category on this agenda under Evidentiary Cases.

A D J O U R N M E N T

18. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting. Cases that are before the Board for vote will be provided under separate cover.

(1) **RONALD FRANKLYN, CASE NO. 05-2105A**

Appeal from 20 working days suspension

Classification: Officer

Department: California Highway Patrol

Proposed decision rejected December 20, 2005

Pending transcript

Oral argument heard March 8, 2006, Sacramento

Case ready for decision by FULL Board

(2) **ERNEST PITMAN, CASE NO. 05-1591A**

Appeal from dismissal

Classification: Motor Vehicle Field Representative

Department: Department of Motor Vehicles

Proposed decision rejected December 6, 2005

Pending transcript

Oral argument heard March 8, 2006, Sacramento

Case ready for decision by FULL Board

(3) **RICHARD QUADRELLI, CASE NO. 05-1039A**

Appeal from dismissal

Classification: Caltrans Maintenance Supervisor

Department: Department of Transportation

Proposed decision rejected December 6, 2005

Pending transcript

Oral argument heard March 8, 2006, Sacramento

Case ready for decision by FULL Board

B. CASES PENDING

ORAL ARGUMENTS

These cases are on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

RICK OCHOA, CASE NO. 04-2373BA

Appeal for determination of back salary, benefits and interest

Classification: Youth Correctional Officer

Department: Department of the Youth Authority

Proposed decision rejected January 24, 2006.

Transcript prepared.

Oral argument April 4, 2006, Sacramento

C. CHIEF COUNSEL RESOLUTIONS

(1) ADALBERTO AYALA, CASE NO. 05-1300E

Appeal from discrimination

Classification: Motor Vehicle Field Representative

Department: Department of Motor Vehicles

Request to rescind settlement agreement

(2) KARIN CHEN, CASE NO. 04-3055

Appeal from medical termination

Classification: Office Technician (Typing)

Department: Department of Transportation

Request for order to show cause

(3) BRYAN CARLSON, CASE NO. 04-2279

Appeal from demotion and transfer

Classification: CalTrans Maintenance Supervisor

Department: Department of Transportation

Request for order to show cause

(4) CATHY KURTZ, CASE NO. 04-1465

Appeal from CEA termination

Classification: Career Executive Assignment II

Department: Board of Prison Terms

Request for order to show cause

COURT REMANDS

This case has been remanded to the Board by the court for further Board action.

NONE

STIPULATIONS

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

- (1) **ROBERT JOEHNCK, CASE NO. 05-1516**
Classification: Staff Counsel III (Specialist)
Department: Department of Conservation

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These are ALJ proposed decisions submitted to the Board for the first time.

- (1) **CHRISTINA ALMARAZ, CASE NO. 05-0789**
Appeal from five percent reduction in salary for three calendar months
Classification: Satellite Wagering Facility Janitor
Department: 22nd District Agricultural Association
- (2) **MARIA AMARO, CASE NO. 04-2121E**
Appeal from denial of disability discrimination complaint
Classification: Office Assistant (Typing)
Department: Department of Corrections and Rehabilitation
- (3) **SALVADOR ANAYA, CASE NO. 03-1825E**
Appeal from denial of reasonable accommodation
Classification: Caltrans Equipment Operator II
Department: Department of Transportation
- (4) **DEWEY BREAUX, CASE NO. 05-1288**
Appeal from ten percent reduction in salary for twelve months
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
- (5) **DANNY BROWN, CASE NO. 05-2209**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation

- (6) **CLIFFORD CHIGBU, CASE NO. 05-1525**
Appeal from five working days suspension
Classification: Disability Insurance Program Representative
Department: Employment Development Department
- (7) **ALFRED DEL PRATO, CASE NO. 05-1449**
Appeal from demotion
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation
- (8) **YAYA FANUSIE, CASE NO. 03-2134**
Appeal from five days suspension
Classification: Associate Transportation Rate Expert
Department: California Public Utilities Commission
- (9) **RAYMOND E. GURULE, CASE NO. 05-1351**
Appeal from dismissal
Classification: Youth Correctional Officer
Department: Department of the Youth Authority
- (10) **JACQUES HIRSCHLER, CASE NO. 02-1276B**
Appeal for back salary
Classification: Chief Medical Officer, Correctional Facility
Department: Department of Corrections and Rehabilitation
- (11) **SHAYNE INABNIT, CASE NO. 05-0767**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
- (12) **TANYA KEYES, CASE NO. 05-0737**
Appeal from demotion for six working months
Classification: Satellite Facility Lead Janitor
Department: 22nd District Agricultural Association
- (13) **MICHAEL KING, CASE NO. 05-0738**
Appeal from ten percent reduction in salary for six months
Classification: Satellite Wagering Facility Janitor
Department: 22nd District Agricultural Association
- (14) **HECTOR MEZA, CASE NO. 05-1795**
Appeal from ten working days suspension
Classification: Officer
Department: Department of California Highway Patrol

April 4, 2006

- (15) **KENNY PENNYCOOK, CASE NO. 05-3766**
Appeal from rejection during probationary period
Classification: Corrections Officer
Department: Department of Corrections and Rehabilitation
- (16) **EVA RIVERA, CASE NO. 05-2375E**
Appeal from discriminatory denial of appointment
Classification: Senior Legal Typist
Department: State Compensation Insurance Fund
- (17) **DOREEN SCHMIDT, CASE NO. 05-0927**
Appeal from dismissal
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation
- (18) **KEITH THOMAS, CASE NO. 05-0159**
Appeal from suspension for 60 calendar days
Classification: Parole Agent I (Adult Parole)
Department: Department of Corrections and Rehabilitation

Proposed Decisions Taken Under Submission At Prior Meeting

These are ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

NONE

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

- (1) **MICHELLE AYRES, CASE NO. 05-2974P**
Notice of Findings signed by the Executive Officer on
January 4, 2006
Classification: Psychiatric Technician
Department: Department of Mental Health

(2) LEE KENDRICK, CASE NO. 04-1620P

Appeal from dismissal

Classification: Transportation Surveyor

Department: Department of Transportation

(3) GORDON SMITH, CASE NO. 05-2181P

Appeal from rejection during probationary period

Classification: Caltrans Equipment Operator II

Department: Department of Transportation

WHISTLEBLOWER NOTICE OF FINDINGS

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

(1) TROY ALLEN, CASE NO. 05-2150A

Appeal from dismissal

Classification: Caltrans Equipment Operator II

Department: Department of Transportation

Proposed decision rejected February 7, 2006.

Transcript prepared.

Pending oral argument May 2-3, 2006, Los Angeles

(2) ALEJANDRO GILL, CASE NO. 05-0054RA

Appeal from dismissal

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

Proposed decision rejected January 6, 2006

Transcript prepared

Pending oral argument May 2-3, 2006, Los Angeles

- (3) **JUDY JOHNSON, CASE NO. 05-1367A**
Appeal from automatic resignation
Classification: Motor Vehicle Field Representative
Department: Department of Motor Vehicles

Proposed decision rejected February 21, 2006.
Pending transcript

- (4) **RICK OCHOA, CASE NO. 04-2373B**
Appeal for determination of back salary, benefits and interest
Classification: Youth Correctional Officer
Department: Department of the Youth Authority

Proposed decision rejected January 24, 2006
Pending transcript
Pending oral argument April 4-5, 2006, Sacramento

- (5) **EDUARDO PEREZ, CASE NO. 05-0763A**
Appeal from five percent reduction in salary for six months
Classification: Parole Agent I (Adult Parole)
Department: Department of Corrections

Proposed decision rejected November 1, 2005
Pending transcript
Pending oral argument February 7-8, 2006, Los Angeles
Oral argument continued
Pending oral argument May 2-3, 2006, Los Angeles

20. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

- (1) **GERALD MARFIL, CASE NO. 04-1012**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Whether appellant was properly withheld for not meeting the Minimum Qualifications.
- (2) **CARLOS MARTINEZ, CASE NO. 05-0415**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; furnished inaccurate information and a negative employment record.
- (3) **ALFONSO MERCADO, CASE NO. 05-0042**
Classification: Casework Specialist
Department: Department of Corrections and Rehabilitation
Issue: Whether appellant was properly withheld for not meeting the Minimum Qualifications.
- (4) **TREASURE NEWTON, CASE NO. 05-0717**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability and illegal drug activity.
- (5) **JORGE PACHECO, CASE NO. 05-0798**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability and illegal drug activity.
- (6) **ROBERT POST, CASE NO. 05-0278**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability for peace officer position due to furnishing inaccurate information and omitting pertinent information during the selection process.
- (7) **DOMINICK QUIROZ, CASE NO. 05-1148**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability and omitting pertinent information.
- (8) **WHITNEY WADE, CASE NO. 05-0217**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Failed to provide additional information and documentation to complete background investigation.

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

(1) MARCOS HERNANDEZ, CASE NO. 05-0964

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

Issue: Appellant psychologically disqualified from employment as a Correctional Officer.

**C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

EXAMINATION APPEALS

NONE

MINIMUM QUALIFICATIONS

NONE

MERIT ISSUE COMPLAINTS

NONE

**D. RULE 211 APPEALS
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS**

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board will be presented recommendations by a Staff Hearing Officer for final decision on each appeal.

RULE 211 APPEALS

- (1) **RICHARD DAVIS, CASE NO. 05-1998**
Classification: Psychiatric Technician
Department: State Personnel Board
Issue: Pursuant to Rule 211, the appellant is requesting approval from the SPB's Executive Officer to take a state examination after having been dismissed from state service.
- (2) **ALVIN HALE, CASE NO. 05-0771**
Classification: Office Technician (T) LEAP
Department: State Personnel Board
Issue: Pursuant to Rule 211, the appellant is requesting approval from the SPB's Executive Officer to take a state examination after having been dismissed from state service.

RULE 212 OUT OF CLASS APPEALS

NONE

VOIDED APPOINTMENT APPEALS

NONE

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

NONE

PETITIONS FOR REHEARING CASES

NONE

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

6. RONALD FRANKLYN, CASE NO. 05-2105A

Appeal from 20 working days suspension. Officer. California Highway Patrol. (Oral argument held March 8, 2006.)

7. ERNEST PITMAN, CASE NO. 05-1591A

Appeal from dismissal. Motor Vehicle Field Representative. Department of Motor Vehicles. (Oral argument held March 8, 2006.)

8. RICHARD QUADRELLI, CASE NO. 05-1039A

Appeal from dismissal. Caltrans Maintenance Supervisor. Department of Transportation. (Oral argument held March 8, 2006.)

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *



1

(Cal. 04/04/06)

TO: Members
State Personnel Board

FROM: State Personnel Board - Legislative Office

SUBJECT: LEGISLATION

There is no written legislative report at this time. I will give a verbal presentation on any legislative action that has taken place that will be of interest to the Board.

Please contact me directly should you have any questions or comments regarding any bills that you may have an interest in. I can be reached at (916) 653-0453.


Sherry Hicks
Director of Legislation

STATE PERSONNEL BOARD

NON-HEARING CALENDAR

RE: BOARD DATE APRIL 4, 2006

(Cal. 04/04/06)

MEMO TO : STATE PERSONNEL BOARD

FROM : KAREN COFFEE, Chief, Merit Employment and
Technical Resources Division

SUBJECT : Non-Hearing Calendar Items for Board Action

The staff has evaluated these items and recommend the following actions be taken:

A. BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH, REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE CRITERIA, ETC.

Page

INVESTIGATIVE CERTIFIED PUBLIC ACCOUNTANT

202

The Department of Consumer Affairs, California Board of Accountancy proposes revisions to the class series of Investigative Certified Public Accountant including the following: addition of new tasks and duties created by reform legislation and the expanded regulation of the accounting industry; and revisions to the minimum qualifications.

B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.

The Department of Personnel Administration and SPB staff proposes that the following classes be abolished. All of the following classes have been vacant for more than twenty-four months. The user departments and appropriate union have been notified and are in agreement. Class Specs are included in this Board Item only for classification(s) proposed to be abolished which are part of a class series.

Title	Class Code
Associate Boating Administrator	1102
Assistant Boating Administrator	1101
Boating Programs Trainee	1036
Reciprocity Officer, State Controllers Office	3291

201

Title	Class Code
Title Specialist III	5039
Business Equipment Analyst	5145
Associate Business Equipment Analyst	4165
Direct Construction Office Manager	4011
Supervising Land Agent (Managerial)	5005
Assistant Purchasing Manager	1932
Manager, Disabled Access Compliance Unit, Office of State Architect	4007

(Cal. 04/04/06)

TO: STATE PERSONNEL BOARD

FROM: JULIE CHAMBERS, Staff Personnel Program Analyst
Department of Personnel Administration

REVIEWED BY: JOSIE FERNANDEZ, Personnel Program Manager
Department of Personnel Administration

SUBJECT: Specification Revision to the class series of Investigative Certified Public Accountant, including the Investigative Certified Public Accountant, Supervising Investigative Certified Public Accountant, and the Chief, Accountancy Enforcement Program to update terminology and include new tasks or duties created by reform legislation and expanded regulation of the accounting industry, and to retain the minimum qualification of auditing experience.

SUMMARY OF ISSUES:

The Department of Consumer Affairs, California Board of Accountancy (CBA) regulates more than 73,000 licensees, including individuals, partnerships, and corporations. Primarily, the Board is a consumer protection agency charged with the regulation of the accountancy profession. Within the CBA, the Enforcement Division is responsible for meeting the Board's statutory protection mandates by investigating and assisting in the prosecution of Certified Public Accountants and Certified Public Accountant firms for matters involving unprofessional conduct, incompetence, fraudulent actions or other unlawful activities. The CBA's Investigative Certified Public Accountant (ICPA) series, used only by the CBA, is responsible for addressing these concerns.

On January 1, 2002, AB 585 and SB 133 became effective and resulted in significant changes to the education, examination, and experience requirements for licensure as a certified public accountant in California. These changes now provide applicants with

various, career-relevant options to become California licensees, and most significantly, allow for obtaining the CPA license without satisfying an audit experience requirement. Under current CBA licensing application procedures, persons who wish to sign “attest” documents are the only individuals that must satisfy the audit experience requirement.

A major portion of CBA’s investigations involve “attest” engagements, or the auditing of financial statements to express an opinion on the fairness of the examined documents. The ICPA must be licensed with audit experience in order to properly evaluate conduct on these attest engagements and establish the credibility required to function as an expert witness on these issues at hearing. Current minimum qualifications do not specifically require the audit experience because it was a requirement under the CBA’s licensing process prior to 2002. Thus, the proposed change in the minimum qualifications to specifically include the audit experience is tied to both the duties of the class series and recent legislation which made auditing experience optional for individuals seeking licensure.

In summary, accounting irregularities nationally and within the State have caused financial debacles. Consequently, the sensitivity and complexity of the work done by the CBA’s Enforcement Program has changed. In 2002, the Legislature and the Administration recognized and emphasized the importance and need for placing full responsibility for investigations with ICPA staff under the direction of the Board’s Executive Officer. Sections 5103 and 5108 were added the Business and Professions Code, effectively transferring full authority for investigations, including subpoena authority, to the Executive Officer and the ICPA staff.

Another cause for the specification revision involves a change to the users of the class series within Consumer Affairs. In 1999, the class specification was revised to include ICPAs performing financial audits for the DCA’s Bureau for Private Postsecondary and Vocational Education. The Bureau no longer uses this classification series, and the DCA is proposing to revise the text of the specification to reflect this change.

CONSULTED WITH:

JEFF SEARS, Manager, Personnel Office, Consumer Affairs

GREGORY NEWINGTON, Chief, Enforcement Program, Consumer Affairs

In accordance with the terms of the Bargaining Unit I contract, the Department of Personnel Administration has notified the union in writing of this proposal.

CLASSIFICATION CONSIDERATIONS:

See Attached

RECOMMENDATIONS:

That the proposed revised Investigative Certified Public Accountant, Department of Consumer Affairs, series specification for the following classes as shown in this calendar be adopted.

Investigative Certified Public Accountant, Department of Consumer Affairs
Supervising Certified Public Accountant, Department of Consumer Affairs
Chief, Accountancy Enforcement Program, Department of Consumer Affairs

B. CLASSIFICATION CONSIDERATIONS**DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)****INVESTIGATIVE CERTIFIED PUBLIC ACCOUNTANT SERIES****BACKGROUND****1. Provide some historical perspective about the organizational setting of the subject classes and the needs that this request addresses.**

The California Board of Accountancy (CBA) is a Special Fund agency supported entirely by licensee fees and assessments; there are NO General Funds expended for the positions affected by this proposal.

As stated in Part A (Classification Proposal Concept), the California Board of Accountancy is a consumer protection agency, with a legal mandate via the California Accountancy Act to regulate the accountancy profession "...to ensure that those private businesses and professions deemed to engage in activities which have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California." Section 5000.1 of the Accountancy Act specifically states, "Protection of the public shall be the highest priority for the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."¹ Consistent with this mandate, it is the Board's strategic mission "...to protect the public welfare by ensuring that only qualified persons are licensed and that appropriate standards of competency and practice are established and enforced."

The CBA is the only agency in California that utilizes the **Investigative Certified Public Accountant** (ICPA) series. This Board regulates more than 73,000 licensees, including individuals, partnerships, and corporations. As such, it is the largest accountancy board in the nation, and it is unique in California in its authority to license and discipline not only individuals, but also firms — several of which have offices not only in this state and country, but globally.

Within the CBA, the Enforcement Division is responsible for meeting the Board's statutory consumer protection mandate by investigating and assisting the prosecution of CPAs and CPA firms for matters involving unprofessional conduct, incompetence, fraudulent action, or other unlawful activities. Generally, suspected violations are brought to the attention of the Enforcement Division by the public (via complaints), media reports, members of the accounting profession, professional societies, law enforcement agencies, and other government agencies, as well as internal referrals from Board committees and other divisions.

¹ This provision was enacted in reform legislation of 2002 (AB 269 [Correa, Chapter 107, Statutes of 2002]), 10 years after the creation of the ICPA classification series (1992).

B. Classification Considerations

Primary responsibility for addressing these concerns rests with the Board's in-house ICPA staff, a highly specialized professional classification. The ICPA classification is critical for the Board to accomplish its enforcement mandate because incumbents are the only individuals who possess the technical expertise, knowledge of the investigative processes and techniques, and all importantly — the professional CPA credential — to complete the required tasks involved. While the Enforcement Division has professional analytical staff, the technical expertise acquired through many years of experience and continuing professional education (and the CPA credential needed to respond to these matters) are specific to the ICPA classification. Therefore, these tasks cannot be delegated.

The ICPA is the only classification in California state service that requires, and justifiably so, a CPA license. Licensed CPAs are essential for this classification because ONLY they possess the education, experience, and training required for these investigations and the professional distinction necessary to have credibility as an investigator and expert witness. Since a major portion of CBA's investigations involve attest engagements, the ICPA must also be licensed with attest experience in order to properly evaluate conduct on these attest engagements and possess credibility required to function as an expert witness on these issues at hearing. [Note: Attest engagements most frequently investigated by the ICPAs involve audits of financial statements. Audits involve a methodical review and objective examination of the financial statements of an enterprise. The independent auditor generally expresses and opinion, in the form of an audit report, on the fairness of the financial statements. The independent auditor's expression of the opinion is known as the attest function. Governments, corporations, small businesses, financial institutions, investors, and the general public rely on the independence and objectivity of the certified public accountant and their attest responsibilities. If audit reports are not properly prepared, monetary losses can result both to the audited entity and to those who rely on its financial statements.]

Subsequent to the establishment of the Investigative CPA class series in 1992, several changes have taken place that critically impact the need for approval of this proposal. Workload has increased in both volume and complexity. Reliance on the ICPA class to accomplish the Board's enforcement mission has increased with the decreased use of resources previously available through the Board's Administrative Committee and Technical Review Panel. Also, market changes in public accounting have resulted in a dramatic increase in demand for experienced accountants, while the supply of college accounting graduates has dropped approximately 25 percent below what was available when the ICPA class was established.

In addition, as noted above, the Accountancy Act has been amended to mandate that protection of the public shall be the Board of Accountancy's highest priority. In the past 13 years, we have shifted to a global economy, with borders virtually erased. Enron and Worldcom happened. Arthur Andersen LLP collapsed. Congress passed the Sarbanes-Oxley Act, compelling the creation of the Public Company Accounting Oversight Board (PCAOB). New state and federal statutes have increased responsibility, and the accountancy profession standard-setting bodies also have amended and augmented affirmative responsibilities of increasing complexity upon practitioners.

B. Classification Considerations**INCREASE IN WORKLOAD VOLUME AND TECHNICAL COMPLEXITY.**

Workload volume and technical complexity of tasks have increased due to recent reform statutes (See footnote 1, Page 1) that have significantly expanded requirements for CPAs, insurers, and the courts to report events suggestive of licensee unprofessional conduct. Since these new requirements became effective January 1, 2003, ICPA staff have received more than 700 reports, most involving restated financial statements of publicly traded corporations. This new legislation also expanded the statute that defines unprofessional conduct for CPAs to now include: a) repeated negligent acts; b) sanctions by the SEC or the PCAOB; and c) failure to meet audit documentation requirements². These new requirements directly impact the duties of the Board's Investigative CPAs, as focus of the Board's investigations is being directed increasingly toward complex investigations involving audits of financial statements, including those of publicly traded companies, charitable organizations, and governmental entities. In the last year alone, ICPAs within the Enforcement Division have applied these new provisions within investigations that led to discipline and placement on probation of KPMG, LLP and Ernst and Young, LLP, two of the four largest accounting firms in the world.

Investigations have increased 50 percent from one year ago and workload is expected to intensify even further due to new legislation (SB 1543) adopted in 2004 which establishes a practice privilege notification process for cross-border practice. This legislation allows accounting firms with employees licensed outside of California to practice in California for a period of up to one year, subsequent to notification of the Board. With an implementation date of January 1, 2006, this legislation is expected to increase the ICPAs' workload because they will be the resources used to review and resolve issues involving potential disqualifying conditions on the practice privilege notification form. The ICPAs also will be responsible for investigating all reports of unprofessional conduct that relate to this entirely new population of professionals involved in cross-border practice.

MARKETPLACE CHANGES.

Over the last four to five years, the profession of public accounting has experienced huge market changes. Again, passage of the Sarbanes-Oxley Act has resulted in an expansion of the scope of work done in financial audits. Those changes have increased the number of hours it takes to do a typical audit by 40 to 60 percent. An entirely new field of work has been created related to Section 404 of the Sarbanes-Oxley Act that requires companies to document and assess the effectiveness of their systems of internal controls over financial reporting. Section 404 further requires those internal control systems and their effectiveness be audited and reported on by the independent CPAs.

² (AB 2873, Frommer; Chapter 230, Statutes of 2002).

B. Classification Considerations

PAST RELIANCE ON NON-STAFF CPAs.

When the ICPA class was established in 1992, investigative responsibilities were shared with 25-30 per diem individual CPAs available as an investigative resource through the Board's Administrative and the Board's Technical Review Panel. Reliance on these per diem resources was phased out over time due to their inefficiency, perceived lack of independence, and the lack of consistent quality in the investigative work product being generated.

Then, in 2002, the Legislature and the Administration recognized and emphasized the importance and need for placing full responsibility for investigations with ICPA staff under the direction of the Board's Executive Officer. Sections 5103 and 5108 were added to the Business and Professions Code, effectively transferring full authority for investigations, including subpoena authority to the Executive Officer and staff ICPAs. The Administrative Committee was changed in statute (Business and Professions Code Section 5020) to act solely in an advisory capacity².

Use of independent consultants to satisfy this workload has proven to be an impractical, expensive, and generally unfeasible option. The contracting process alone would place a huge administrative burden on the Board and would possibly delay each investigation by as much as six months. While it is true that consultants with the required technical knowledge can be located; however, they commonly experience a conflict of interest because of a historical relationship with either the subject of the investigation or their legal counsel. Consultants also have competing demands from their own professional accounting practices and have been shown to be an unreliable resource for anything more than an occasional assignment. Consultants with the required CPA credential also are very expensive. Current hourly rates run in the range of \$250 to \$500 per hour or approximately five to 10 times the expense of the ICPA class. Use of consultants would require considerable oversight, taking already strained ICPA resources away from the Enforcement Division workload. It also is important to understand that it takes approximately two years for an ICPA to become proficient in investigative techniques. In addition, the use of consultants in the place of professional ICPA staff would erode the continuity of the program.

CLASSIFICATION CONSIDERATIONS.

2. What classifications do the subject classes report to?

- The Investigative CPAs report to the Supervising Investigative CPA.
- The Supervising Investigative CPA reports to the Chief, Accountancy Enforcement Program.

² (AB 2873, Frommer; Chapter 230, Statutes of 2002).

B. Classification Considerations

- The Chief, Accountancy Enforcement Program reports to the Executive Officer (Exempt Level J) of the California Board of Accountancy.

3. Will the subject classes supervise? If so, what classes?

- The Supervising Investigative CPA will supervise Investigative CPAs and clerical classes (Office Assistant/Technician).
- The Chief, Accountancy Enforcement Program will supervise the Supervising Investigative CPA, professional analysts and clerical classes and provide oversight to outside consultants, outside counsel, and resources utilized from the Office of the Attorney General.

4. What are the specific duties of the subject classes?

The primary duties performed by the ICPAs include:

- Planning and completing investigations of licensed California CPAs and licensed accounting firms for violations of the Accountancy Act and Accountancy Regulations.
 - * Investigations typically include interviews of licensees, clients, and witnesses, as well as examining and evaluating various documents, contracts, transcripts, work papers and reports. Professional services investigated generally involve audited, reviewed, and compiled financial statements, as well as income tax filings, consulting services, litigation support services, and other professional services offered to clients.
 - * This wide variety of professional services investigated imposes the requirement that the ICPA have knowledge and understanding of a broad spectrum of professional standards. The ICPA also must possess the ability to design and execute effective investigative procedures to determine if the work and conduct of the individual or licensed firm were in conformance with professional standards and pronouncements.
- Preparing and issuing investigative subpoenas.
- Obtaining and evaluating evidence, receiving and taking oral declarations and depositions, and preparing investigative reports that include finding of facts and conclusions as to whether a violation of the Accountancy Act and/or Board Regulations has occurred.
- Preparing and conducting informal and formal investigative depositions of licensees and witnesses.
- Assisting legal counsel in the preparation of pleadings and providing technical support in litigation.

B. Classification Considerations

- Serving as expert witnesses in testifying at administrative disciplinary proceedings before the Office of Administrative Hearings.
- Investigating instances of CPA exam subversion and coordinating the prosecution of exam cheaters.
- Reviewing information from reportable events information.
 - * This new responsibility dates from 2003, when the Board became subject to the enactment of landmark reform legislation (See footnote 1, Page 1) that greatly expanded requirements for CPAs, insurers, and the courts to report specific events suggestive of licensee unprofessional conduct.
 - * Reportable events, such as civil court judgments and those involving restated financial statements for government entities, nonprofit entities, and publicly traded corporations, are reviewed and investigated by ICPAs to obtain evidence of Accountancy Act violations.

The Supervising Investigative CPA plans, organizes and directs the work performed by the Investigative CPAs, in addition to performing the most sensitive and complex investigations.

The Chief, Accountancy Enforcement Program represents the managerial level in the series. The Chief plans, organizes and directs the work of the California Board of Accountancy's Enforcement program.

The Chief also participates in the development and interpretation of policy and program practices, functions as an expert in accounting practices, and acts as a liaison with law enforcement agencies. The Chief also represents the Board by providing informative public address forums before professional groups and other interested stakeholders.

5. What is the decision-making responsibility of the subject classes?

The Investigative CPA has decision-making responsibility to:

- Review consumer complaints and statutorily required reportable events to identify issues of concern and potential violations of California statutes and/or Board Regulations.
- Develop procedures to effectively collect relevant information, documents, and evidence.
- Identify professional standards and performance criteria applicable to the case issues. Professional standards include, but are not limited to, standards

B. Classification Considerations**Page B-8**

promulgated by the American Institute of Certified Public Accountants (AICPA), the Government Accountability Office (GAO), the Securities and Exchange Commission (SEC), the U.S. Treasury Department, and other professional standards-setting bodies.

- Determine if evidence of violations of professional standards and/or California statutes and/or regulations is present.
- Prepare and propose appropriate agency action for resolution.

The Supervising Investigative CPA is responsible for ensuring that the completed staff work, the conclusions and the recommendations provided by the Investigative CPAs are thoroughly researched, accurate and consistent with statutory requirements, rules, regulations and professional standards.

The Chief has influence on policy and is consulted as the State's expert on accounting practices and various law and program requirements. As a member of the Executive Staff for the California Board of Accountancy, the Chief participates in setting goals/direction for the program. This individual also is responsible for deciding the nature and scope of resources (investigative and legal) to be applied to specific investigations and prosecutions and the content of stipulated settlements that are to be proposed to the Board.

6. What would be the consequence of error if incumbents in the subject classes did not perform their jobs? (Program problems, lost funding, public safety compromised, etc.)

California's consumers and capital markets rely on licensed CPAs to provide a wide variety of accounting services (bookkeeping, tax filings, audits, reviews, compilations, management advisory services, litigation support, etc.). Incumbents in the subject classes provide assurance that licensed CPAs perform these services lawfully and in conformance with professional standards. If CPAs are not closely and effectively regulated by the California Board of Accountancy through its Investigative CPA class, significant negative consequences to California consumers and investors will result as professional services diminish in quality. Examples include inaccurate income tax filings and failed financial statement audits (such as those resulting in the Enron case).

7. What are the analytical requirements expected of incumbents in the subject classes?

Incumbents in the ICPA class are expected to be able to:

- Investigate the circumstances of various professional accounting engagements.

B. Classification Considerations

- Identify potential violations of California statutes or regulations.
- Secure and review evidence that may include complex financial documents, contracts, and/or engagement work papers.
- Identify and apply relevant professional standards (AICPA, GAO, PCAOB, SEC, IRS, etc.).
- Determine if evidence of violations of professional standards and/or California statutes and/or regulations is present.
- Identify and propose appropriate action for case resolution.

Incumbents in the Supervising ICPA and Chief, Accountancy Enforcement Program classes are expected to be able to perform all of the above, but have the increased responsibility for effectively managing a statewide program including planning, training, surveying, policy development and analysis.

8. What are the purpose, type, and level of contacts incumbents in the subject classes make?

On a regular basis, incumbents, have extensive contact with the public, private businesses, consumers and law enforcement and other governmental agencies for the purpose of gathering evidence, providing information, investigating complaints, and providing expert testimony or technical support. Incumbents at all levels within the series will come into contact with individuals across all levels of authority: private citizens, public law enforcement personnel, state and private attorneys, CEO/CFOs, and federal officials.

NEED FOR NEW CLASS (if necessary)

9. For New classes only: what existing classes were considered and why were they not appropriate?

N/A

MINIMUM QUALIFICATIONS

10. What are the proposed or current minimum qualifications of the subject classes, and why are they appropriate? (Include inside and outside experience patterns.)

The minimum qualifications for the class series include a proposed revision to add the requirement for incumbents to satisfy the attest experience requirement in addition to the current requirement for active licensure as a Certified Public Accountant. Until 2001, the attest requirement was a part of the standard licensure for a CPA; however,

B. Classification Considerations

legislation [AB 585 and SB 133 (Chapters 704 and 718, respectively, Statutes of 2001)], amended Business and Professions Code Sections 5092, 5093 and 5095 to remove attest experience from the requirements for licensure.

A major portion of the investigations performed by the ICPA class series involves attest engagements (See Note, Page 2). As the duties of the class series include, as a critical element, the assessment of audits and financial statements and the determination of audit failures, possession of the audit experience necessary to satisfy the attest requirement of the CPA license is crucial to incumbents' ability to adequately perform in the classification. Without audit experience, incumbents would lack knowledge essential for these investigations and their credibility as an expert witness would be absent. Because of this, the California Board of Accountancy cannot accept candidates for this classification who do not possess attest experience.

In addition, legislation enacted in 2001 (Chapter 718, as cited above, and Chapter 664, Statutes of 2001) deleted the equivalency examinations as a pathway to CPA licensure, so this qualification has also been removed from the specification.

PROBATIONARY PERIOD

☐ Six Months

11. If a probationary period other than six months is proposed, what is the rationale?

The probationary periods for the class series are not changing; each class in the series has a probationary period of twelve months, which is necessary to effectively evaluate incumbents, based on the complex technical requirements, and is also the standard period for supervisory or managerial classes.

STATUS CONSIDERATIONS (see additional information in Part D).**12. What is the impact on current incumbents?**

This proposal has no impact on the status or qualifications requirements of current incumbents.

13. Will current employees move by examination, transfer, reallocation, split-off, etc.? Explain rationale.

N/A

B. Classification Considerations**CONSULTED WITH:**

14. In addition to the departmental contacts listed on the cover sheet, list the names and affiliations of persons who were consulted during the development of this proposal.

Carol Sigmann, Executive Officer,
California Board of Accountancy

Gregory Newington, Chief, Accountancy Enforcement Program,
California Board of Accountancy

CALIFORNIA STATE PERSONNEL BOARD

SPECIFICATION

INVESTIGATIVE CERTIFIED PUBLIC ACCOUNTANT
Series Specification
(Established September 8, 1992)

SCOPE

This series specification describes the Investigative Certified Public Accountant classes used exclusively by the California State Board of Accountancy ~~and the Bureau of Private Postsecondary and Vocational Education~~ in the Department of Consumer Affairs to ~~investigate complaints~~ conduct investigations or hearings with or without the filing of any complaint against licensed accountants, ~~and accounting firms, and private postsecondary and vocational educational institutions licensed by the Bureau;~~ and to provide the required financial compliance and regulatory oversight ~~as~~ required by various laws administered by the Board ~~and the Bureau~~. Incumbents in this series will administer, supervise, and conduct investigative ~~and compliance~~ reviews of licensee's activities that have been called into question through public complaints, peer referral, or government review, as well as ~~audits of financial statements as required by licensure, approval, and inspection statutes~~ provide technical support to legal counsel and expert testimony in hearings and litigation.

<u>Schem</u> <u>Code</u>	<u>Class</u> <u>Code</u>	<u>Class</u>
JE36	6612	Investigative Certified Public Accountant
JE34	6613	Supervising Investigative Certified Public Accountant
JE32	6614	Chief, Accountancy Enforcement Program

DEFINITION OF SERIES

Positions in this series plan and perform investigations and assist in the prosecution of complaints filed against California Certified Public Accountants (CPAs), Public Accountants, ~~private postsecondary and vocational institutions~~ licensed accounting firms, and unlicensed individuals or institutions for violations of the various laws administered by the California State Board of Accountancy ~~and the Bureau of Private Postsecondary and Vocational Education~~. Incumbents perform practice quality reviews and examine and evaluate workpapers and reports on audits, reviewed and compiled financial statements, income tax filings, ~~management advisory~~ consulting services, litigation support services, and other professional services offered to clients for quality and conformance of work and conduct to professional standards and pronouncements; ~~process financial documents submitted to the Bureau as required for licensure, approval, and inspection;~~ prepare oral and written reports on enforcement activities, ~~application approvals, and subsequent inspections associated with the various licensees;~~ appear at including findings of facts and conclusions as to presence of evidence of violations committed; prepare and conduct informal and formal investigative ~~and administrative hearings of various disciplinary committees~~ depositions of licensees and witnesses; assist legal counsel in the preparation of pleadings and provide technical support in litigation; prepare and

issue investigative subpoenas; investigate instances of CPA exam subversion and coordinate the prosecution of exam cheaters; serve as expert witnesses in testifying at administrative disciplinary proceedings for the Board and the Bureau before the Office of Administrative Hearings; and do other related work.

ENTRY LEVEL

Entry into the Investigative Certified Public Accountant series is typically gained through competition in an open statewide civil service examination process.

FACTORS AFFECTING POSITION ALLOCATION

Variety and complexity of investigative assignments, independence of action and level of decision-making authority, scope and complexity of investigative objectives, level and variety of professional contacts, degree of administrative and supervisory responsibilities, supervision received, responsibility for program and policy implementation, and impact of the investigations to the rules and regulations of the Business and Professions Code administered by the California Department of Consumer Affairs.

JOB CHARACTERISTICS

All levels in the Investigative Certified Public Accountant series will be required to possess and maintain an active California Certified Public Accountant license during the course of employment.

DEFINITION OF LEVELS

INVESTIGATIVE CERTIFIED PUBLIC ACCOUNTANT

This is the entry and full journey level in the series. Under general supervision, incumbents perform complex technical investigations with a high degree of independence; may act in a lead capacity to direct or review the work of other Investigative Certified Public Accountants;; provide technical support to legal counsel during litigation; provide expert testimony at administrative disciplinary proceedings; and do other related work.

SUPERVISING INVESTIGATIVE CERTIFIED PUBLIC ACCOUNTANT

This is the working supervisory level in the series. Incumbents plan, organize, and direct the work performed by Investigative Certified Public Accountants; perform the most sensitive and complex investigations; and do other related work.

CHIEF, ACCOUNTANCY ENFORCEMENT PROGRAM

Under the administrative direction of the Executive Officer, California ~~State~~ Board of Accountancy, the incumbent plans, organizes, and directs the work of the staff within the Accountancy Enforcement Program, contracted investigative consultants, legal counsel from the Office of the Attorney General, and contracted outside law firms; develops and interprets policies, programs, and practices for the statewide administration of the Enforcement Program for the Board; functions as the State's expert on accounting practices; acts as liaison with related law enforcement agencies; and does other related work.

MINIMUM QUALIFICATIONS

ALL LEVELS:

Education: Equivalent to graduation from college ~~with a minimum of 30-semester units of business and accounting courses.~~ or

~~Completion of equivalency examination such as the College Level Examination Program and the Accountancy Act Proficiency Examination Program.~~

and

License: Possession of an active California-issued Certified Public Accountant License, including satisfaction of the attest experience requirement and meet all continuing education requirements of the Board (80 hours per renewal period).

INVESTIGATIVE CERTIFIED PUBLIC ACCOUNTANT

Either I

Experience: Five years of experience in the California state service performing professional auditing or accounting duties, of which one year must be at a level of responsibility not less than that of an Accounting Administrator I (Specialist), or three years at a level of responsibility not less than that of an Associate Management Auditor, of which one year must have been performing highly complex and sensitive audits.

Or II

Three years of increasingly responsible, professional public accounting experience. Professional experience is defined as work performed for a public accounting firm after licensure as a Certified Public Accountant.

SUPERVISING INVESTIGATIVE CERTIFIED PUBLIC ACCOUNTANT

Either I

Experience: One year of experience in the California state service performing duties with a level of responsibility not less than that of an Investigative Certified Public Accountant.

Or II

Three years of increasingly responsible professional public accounting experience, of which one year must include reviewing and evaluating the performance of other Certified Public Accountants, such as peer reviews. Professional experience is defined as work performed for a public accounting firm after licensure as a Certified Public Accountant.

CHIEF, ACCOUNTANCY ENFORCEMENT PROGRAM

Either I

Experience: One year of experience in the California state service performing duties with a level of responsibility not less than that of a Supervising Investigative Certified Public Accountant.

Or II

Four years of experience in the California state service performing investigations of public accounting firms with a level of responsibility not less than that of an Investigative Certified Public Accountant.

Or III

Seven years of progressively responsible, professional public accounting experience, of which three years must have been in a partner or ownership capacity of a certified public accounting firm. Professional experience is defined as work performed for a public accounting firm after licensure as a Certified Public Accountant.

KNOWLEDGE AND ABILITIES

INVESTIGATIVE CERTIFIED PUBLIC ACCOUNTANT

Knowledge of: Current professional accounting standards and pronouncements including Generally Accepted Auditing Standards, Generally Accepted Accounting Principles, Statement on Standards for Accounting and Review Services, Financial Accounting Standards Board, Governmental Accounting Standards Board, and Federal and State tax codes as applied to individual and commercial entities in a variety of industries ~~and to school districts and governmental entities;~~ practice, policies, and procedures of certified public accounting firms, the Securities and Exchange Commission, and the Public Company Accounting Oversight Board; work paper techniques applicable to reviews, financial, compliance, operational, and management audits; review procedures used to assess the quality and scope of work performed by Certified Public Accountants on reviews and audits of government and commercial entities; ~~review of financial documents of private postsecondary and vocational institutions licensed/approved by the Department to determine financial/fiduciary responsibility; and the California Accountancy Act, California State Board of Accountancy rules and regulations, other statutes governing licensees of the Bureau of Private Postsecondary and Vocational Education, and standards of evidence promulgated by the Attorney General's Office.~~

Ability to: Grasp technical audit, ~~and~~ accounting, and professional practice issues and integrate them into comprehensive reports; discern the potential for real or perceived conflicts of interest; analyze data and situations accurately; draw conclusions and determine an effective course of action; communicate effectively; prepare clear,

complete, concise reports; identify and gather pertinent evidence for legal proceedings; establish and maintain working relationships with others; testify before various forums; and maintain the respect, credibility, and acceptance of the accounting profession in California.

SUPERVISING INVESTIGATIVE CERTIFIED PUBLIC ACCOUNTANT

Knowledge of: All of the above, and principles and techniques of personnel management and supervision; Department's program objectives; and a manager's/supervisor's responsibility for promoting equal opportunity in hiring and employee development and promotion, and for maintaining a work environment that is free of discrimination and harassment.

Ability to: All of the above, and supervise, plan, organize, and direct the work of a staff engaged in technical professional accounting investigations ~~and financial reviews~~; and effectively promote equal opportunity in employment and maintain a work environment that is free of harassment and discrimination.

CHIEF, ACCOUNTANCY ENFORCEMENT PROGRAM

Knowledge of: All of the above, and knowledge of organizational and personnel management; the State's legislative and budgetary processes; and the Information Practices Act, Criminal Records Information Security Policy, and rules of evidence in judicial proceedings.

Ability to: All of the above, and plan, organize, and direct all phases of the California ~~State~~ Board of Accountancy's Enforcement Program including both general and direct supervision; direct a diverse staff consisting of committees, panel members, special consultants, expert witnesses, Attorney General's deputies, and outside legal counsel representatives; identify and recommend necessary changes to statutory provisions, regulations, and State policy related to the California ~~State~~ Board of Accountancy's enforcement efforts; and work effectively with the public, the press, and high-level managers both within the private sector and government.

CLASS HISTORY

<u>Class</u>	<u>Date Established</u>	<u>Date Revised</u>	<u>Title Changed</u>
Investigative Certified Public Accountant	9/8/92	3/9/99	--
Supervising Investigative Certified Public Accountant	9/8/92	3/9/99	--
Chief, Accountancy Enforcement Program	9/8/92	3/9/99	--

(Cal. 04/04/06)

MEMO TO : STATE PERSONNEL BOARD
FROM : KAREN COFFEE, Chief, Merit Employment and
Technical Resources Division
SUBJECT : Staff Calendar Items for Board Information

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BLANKETING IN SAN DIEGO FIRE PROTECTION STAFF
The California Department of Forestry and Fire Protection
requests that the Placer Consolidated Fire Protection District
employees be transferred into State civil service.

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To: State Personnel Board

From: Karen Coffee, Chief
Jennifer Roche, Personnel Analyst
Personnel Resources and Innovations Division

Subject: Blanketing Placer Consolidated Fire Protection District into State Civil Service

PROPOSED ACTION:

The California Department of Forestry and Fire Protection (CDF) is requesting that the Placer Consolidated Fire Protection District employees be transferred into State civil service.

Staff is in agreement with this proposal.

CONSULTED WITH:

Larry Menth, Chief, Labor and Human Resources, California Department of Forestry and Fire Protection

Cheryl Robertson, Manager, Personnel Services, California Department of Forestry and Fire Protection

Tony Favro, Manager, Classification and Pay Unit, California Department of Forestry and Fire Protection

Diana Rushton, Associate Personnel Analyst, Classification and Pay Unit, California Department of Forestry and Fire Protection

BACKGROUND:

1. Effective April 10, 2006, the County of Placer will enter into an agreement with the Placer Consolidated Fire Protection District to provide fire protection services. CDF will assume responsibility for the operation and maintenance of the Placer Consolidated Fire Protection District.

A cooperative fire agreement sets forth the fire protection services to be furnished by the State, administered by the CDF's Unit Chief, with reimbursement of costs made to the State by the local agency.

The authorized positions will be within the civil service; and the salaries, hours, fringe benefits, and working conditions are established in accordance with State civil service law and rules.

To ensure continuity of operation and a minimum of disruption to ongoing functions, it is proposed to transfer the Placer Consolidated Fire Protection District employees to equivalent State civil service classifications without examination effective April 10, 2006.

2. All persons subject to transfer under this proposal will be allocated to existing State civil service classes in accordance with State Personnel Board Rule 275, Transferring Into State Civil Service. No new classes are proposed.

As provided in SPB Rule 275, "When it is necessary for the State of California to assume work previously performed by a county, city, federal department or agency, or public district, the Board by resolution shall permit the employees who previously performed the work to qualify in State service in their positions upon allocation of their positions to an appropriate class in the State classification plan and in accordance with standards and procedures established by the executive officer." (Authority: Government Code Section 18701).

Government Code Section 19994 further provides in part that "...the Department (Department of Personnel Administration) may determine the extent, if any, to which the employees employed by the other public agency on the date of transfer are entitled to have credited to them in the State civil service, seniority credits, accumulated sick leave, and accumulated vacation because of service with the former agency...The Department shall limit that determination to the time any transferred employees were employed in the specific function or a function substantially similar while in the former agency and the seniority credits and accumulated sick leave and accumulated vacation shall not exceed that to which each employee would be entitled if he or she had been continuously employed by the State of California."

3. The CDF staff has reviewed and compared duties and salaries of employees transitioned and is satisfied that they can appropriately be classified as follows:

1	<i>Assistant Chief</i>
1	<i>Battalion Chief</i>
4	<i>Fire Captains</i>
3	<i>Fire Apparatus Engineers</i>
7	<i>Fire fighter II</i>
1	<i>Management Services Technician</i>

4. The CDF states that layoffs will not occur as a result of this action. The current incumbents are already performing these duties at the local level and positions are being established. However, in the event of a layoff in the classes being used in the Placer Consolidated Fire Protection District contract, the blanketed-in employees will be subject to the layoff rules of the California State civil service.

RECOMMENDATION:

That the following resolution be adopted:

WHEREAS State Personnel Board Rule 275 states, "When it is necessary for the State of California to assume work previously performed by a county, city, federal department or agency, or public district, the Board by resolution shall permit the employees who previously performed the work to qualify in State service in their positions upon allocation of their positions to an appropriate class in the State classification plan and in accordance with standards and procedures established by the executive officer;" and

WHEREAS effective *April 10, 2006*, the California Department of Forestry and Fire Protection will assume the functions of the Placer Consolidated Fire Protection District; therefore be it

RESOLVED, that effective *April 10, 2006*, the civil service employees now employed by the Placer Consolidated Fire Protection District shall be transferred to equivalent State classifications as determined by the California Department of Forestry and Fire Protection as shown below without examination; and be it further

RESOLVED, that all persons holding Placer Consolidated Fire Protection District positions for one year or more immediately preceding the effective date of such action shall continue to hold their positions as permanent civil service employees in the equivalent State classifications; and be it further

RESOLVED, that all persons holding Placer Consolidated Fire Protection District positions for less than one year immediately preceding the effective date of such action shall continue to hold their positions subject to the probationary period established for the State classification to which assigned; and be it further

RESOLVED, that the Placer Consolidated Fire Protection District has no employees currently on non-pay status; and be it further

RESOLVED, that any Placer Consolidated Fire Protection District employee who is injured or becomes ill on the job prior to the effective date of *April 10, 2006*, shall not be transferred to the equivalent State classification until such time the employee is medically released to full duty; and be it further

RESOLVED, that all persons who have previously held Placer Consolidated Fire Protection District positions that are now to be under the California Department of Forestry and Fire Protection shall have all civil service rights that would have accrued if such former service had been under State civil service.

<i>PLACER CONSOLIDATED FIRE DISTRICT CLASSIFICATION</i>	<i>CDF STATE CLASSIFICATION</i>
Fire Captain	Fire Captain
Fire Engineer	Fire Apparatus Engineer
Firefighter I/III	Firefighter II
Battalion Chief	Battalion Chief
Fire Chief –Exempt	Assistant Chief
Administrative Secretary	Management Services Technician